

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JEROME RANDOLPH,

Movant,

-vs-

UNITED STATES OF AMERICA,

Respondent.

ORDER

Civil Case

No. 6:18-cv-06226-MAT

Criminal Case

No. 6:16-cr-06116-FPG

Jerome Randolph ("Randolph" or "Movant") filed a *pro se* Motion to Vacate the Sentence pursuant to 28 U.S.C. § 2255 ("§ 2255 Motion"). On November 21, 2018, this Court issued a Decision and Order denying Petitioner's § 2255 Motion. As Petitioner points out in his Motion for a Certificate of Appealability, the Court neglected to state whether it was issuing a Certificate of Appealability.

Given that the Court found that no evidentiary hearing was required because "the motion and the files and records of the case conclusively show[ed] that the petitioner is entitled to no relief[,]" 28 U.S.C. § 2255, it would be an abuse of discretion to issue a certificate of appealability, which requires a showing by the applicant of a "substantial likelihood of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). Therefore, the Court denies Petitioner's Motion for a Certificate of Appealability.

SO ORDERED

S/ Michael A. Telesca

HONORABLE MICHAEL A. TELESCA
United States District Judge

DATED: February 11, 2019
Rochester, New York